



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**

**999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>**

**July 30, 2003**

Ref: 8ENF-T

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Park County Commissioners  
c/o Tim Morrison, Chair  
1002 Sheridan Avenue  
Cody, WY 82414

Re: Notice of Safe Drinking Water  
Act Enforcement Action against  
Trail Inn  
PWS #5600570

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Trail Inn, Cody, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.21, 141.31(b), 141.21(g)(2), and 141.201 for: failure to perform routine monitoring for bacteriological quality; failure to report SDWA and total coliform violations to EPA; and failure to provide public notice of the violations.



**Printed on Recycled Paper**

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Olive Hofstader at (303) 312-6467.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>

July 30, 2003

Ref: 8ENF-T

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Trail Inn  
c/o Gary and Dede Fales  
2728 Northfork Hwy.  
Cody, Wyoming 82414

Re: Administrative Order  
Docket No. **SDWA-08-2003-0041**  
Trail Inn  
PWS ID #5600570

Dear Mr. and Mrs. Fales:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Trail Inn is a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 CFR §§ 141.21, 141.31(b), 141.21(g)(2), and 141.201 for: failure to monitor bacteriological quality; failure to report SDWA and total coliform violations to EPA; and failure to provide public notice of the violations.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA

sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Olive Hofstader at the address on the letterhead, include the mailcode 8ENF-T, or you may call Ms. Hofstader at (800) 227-8917, extension 6467, or (303) 312-6467. If you wish to have an informal conference with EPA, you may also call or write Ms. Hofstader. If you are represented by an attorney or have legal questions, please call Brenda Morris at the above 800 number, extension 6891, or at (303) 312-6891.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures  
Order  
SBREFA

cc: Larry Robinson, WY DEQ  
Dr. Karl Musgrave, WDH



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF	)	
	)	
Gary and Dede Fales, Owners	)	
Trail Inn	)	
Cody, Wyoming	)	
PWS ID# WY5600570	)	
	)	
Respondents	)	
	)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g)	)	
of the Safe Drinking Water Act,	)	
42 U.S.C. § 300g-3(g)	)	Docket No. <b>SDWA-08-2003-0041</b>
	)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. Gary and Dede Fales are individuals and therefore "persons" within the meaning of 40 C.F.R. § 141.2.
2. Respondents own and/or operate a system, Trail Inn Water System (the "System"), located in Park County, Wyoming for the provision to the public of piped water for human consumption.



3. The Trail Inn Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and are therefore "suppliers of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a July 14, 2000 sanitary survey by an agent for EPA, Respondents operate a system that is supplied solely by a ground water source consisting of one well. The system serves an average of 100 persons daily during its operational season, June through October, through 6 service connections.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance



with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondents failed to monitor the System's water for contamination by total coliform bacteria during the 1<sup>st</sup> (January-March) quarter in 2002 and the 3<sup>rd</sup> (July-September) quarters in 2001 and 2002, in violation of 40 C.F.R. § 141.21(a).

## II.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondents have not provided public notice of the noncompliance detailed in the preceding Section I, in violation of 40 C.F.R. § 141.201.

## III.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a total coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within 10 days after the system discovers the violation.



2. Respondents failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g) (2) .

#### IV.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondents failed to report to EPA the noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.31(b) .

#### ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondents shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a) .
2. No later than thirty days from the effective date of this Order, Respondents must provide public notice of the violations specified under the Findings of





Violation in Section I in this Order to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

3. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring



requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.

4. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
5. Reporting requirements specified in this Order shall be provided by certified mail to:

Olive Hofstader  
U. S. EPA Region 8 (8ENF-T)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

#### GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondents to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-



3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).

3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondents to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 30TH day of July, 2003.

**David J. Janik**

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON July 30, 2003.**



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